

November 6, 2013

Attorney General Martha Coakley
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

RECEIVED

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OFFICE OF CONSUMER AFFAIRS

Re: Information Security Event

Dear Attorney General Coakley:

On October 4, I received a letter from Richard Novitch, Esq., a copy was also sent to your office and is attached hereto for your reference. Mr. Novitch represents [REDACTED] and is opposing counsel to me in [REDACTED], a probate court divorce matter pending in Middlesex County. The letter from Mr. Novitch states that on or about October 2, 2013 his client, [REDACTED] received a box of confidential paper documents (storage box) at his apartment door with a hand written note from an unknown third party stating they had found the documents in the parking garage. Coincidentally, both [REDACTED] and I reside separately, at [REDACTED], also we both park our cars in the same garage. [REDACTED] was not able to produce the note from the alleged third party after multiple requests. To my best recollection, I had placed the storage box in my locked rental car, which is my standard practice. According to the building management, an investigation was conducted of all employees, security staff and maintenance workers of the building and not one person had ever seen the storage box in the garage or the hallway by [REDACTED] apartment.

Pursuant to M.G.L. c. 93H s. (3)b, I am writing to notify you of an unauthorized access of personal information as described in the paragraph above, to the best of my knowledge involving up to three (3) Massachusetts residents. All three residents have been on notice of this incident either through immediate direct phone contact by me, or in [REDACTED] case, due to his possession of the box and his review of its contents as stated in Mr. Novitch's letter. The affected Massachusetts residents will shortly receive written notice via United States Postal Service mail of the possible unauthorized access to their personal information, a copy of the notice is provided herein.

Upon discovery of the incident through the receipt of the letter from Mr. Novitch, I engaged the Ashcroft Law Firm to negotiate the return of the storage box from Mr. Novitch and his firm Lander & Lander. This process was unduly complicated by Mr. Novitch's demands for an inventory of all of the contents of the storage box, despite their being other client information therein and his insistence to attempt delivery of the storage box to the Massachusetts Board of Bar Overseers, despite their instructions to the contrary. During the twelve (12) days that Mr. Novitch retained the storage box, the Ashcroft Law Firm arranged, at my expense, on two occasions for the storage box to be picked up by a forensic firm. The return of the storage box was refused each time. On the third attempt, the storage box was finally retrieved and the documents inventoried by an IT expert at my expense. The documents were examined for personal information and two Massachusetts Probate Court Financial Statements were found to contain first and last names coupled with unredacted Social Security numbers. I have no information or evidence that the personal information has been used for fraudulent purposes or that any third party exists and had access to the documents in the storage box. I have not reported the incident to law enforcement as it is my belief the box's removal from my rental car was meant to, and has, caused me expense, humiliation, embarrassment

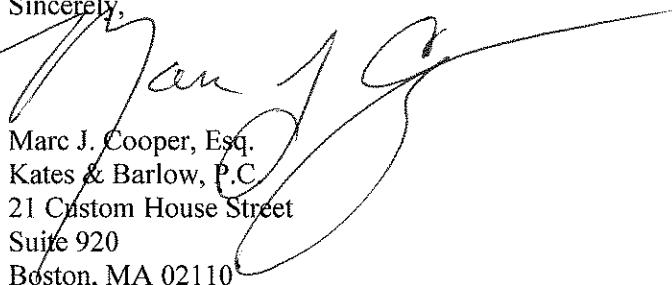
and anxiety from the protracted process of needing to hire legal counsel to have my storage box returned; and that doing so at this point will only perpetuate this situation. In any case, I will offer credit monitoring services to each of the affected Massachusetts residents, including [REDACTED] and one other client.

In the future, I will review all court filings to detect unredacted personal information and I will not accept any court filings from any other counsel for transport or storage that contain unredacted Social Security numbers. Also, I have requested that my residential property management company install security cameras to be placed in the parking garage.

A copy of this letter will be sent to the Director of Consumer Affairs and Business Regulation. Should the Office of the Attorney General have any questions or need further information, please feel free to contact:

Ellen M. Giblin, Esq.
Ashcroft Law Firm
One Post Office Square
Boston, MA 02110
617.245.2939
egiblin@ashcroftlawfirm.com

Sincerely,



Marc J. Cooper, Esq.
Kates & Barlow, P.C.
21 Custom House Street
Suite 920
Boston, MA 02110

LANDER & LANDER, P.C.

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October 4, 2013

VIA FACSIMILE, EMAIL
AND REGULAR MAIL

Marc Cooper, Esq.
KATES & BARLOW, PC
21 Custom House Street
Boston, Massachusetts 02110

Re: [REDACTED]
G.L. c. 93H Violations

Dear Marc:

I have in my possession a transparent box from Staples, which appears to contain hundreds of pages of documents. It was delivered to me by our client, [REDACTED]. For reasons I will shortly explain, we have not gone through its contents, or opened it for that matter. The box was left in front of [REDACTED] apartment door at the [REDACTED] complex in [REDACTED] by an unnamed person with a note that it was found in the parking garage. Clearly, this unidentified person had gone through it sufficiently enough to learn that it contained materials related to [REDACTED]. Presumably this is why it was left on his door step.

There is no question that the box is not mine. Nor is it my client's. I do understand that [REDACTED] has seen you at the same apartment complex in the recent past, and thus I presume that you reside in another apartment there, and that the box is yours.

[REDACTED] went through the box.

According to our client, it contains significant, personal and confidential financial information related to him and his business, such as deposition transcripts, Rule 401 financial statements, general ledgers, and an employment agreement. It *also* contains [REDACTED] Financial Statements, [REDACTED] medical/HPV records and test results, [REDACTED] therapy bill, Belmont Savings Bank statements and records on the home equity line of credit, and what appears to be your personal, handwritten notes.

LANDER & LANDER, P.C.

I am further informed from my client that the box *additionally* contains records of *at least* five (5) *other* clients, including visitation reports of the [REDACTED], records relating to the [REDACTED] and [REDACTED] (sp?) – documents on this final client contained Rule 401 financial statements, a divorce agreement, and life insurance documents. [REDACTED] informs me that [REDACTED] represent one of the [REDACTED], and with this letter I have copied them (as I believe I am ethically and statutorily required to do) to take whatever action they deem appropriate on their client's behalf.

As it appears that you lost or mislaid this box, which contains records of other clients of yours (and what I am told are your hand-written notes), neither I nor any member of my Firm have gone through it. I will continue to safeguard it, in my office, until you are (or another member of your Firm is) ready to retrieve it. Understand that because of the significant and unprecedented breach of security caused by your nonfeasance, carelessness and/or gross negligence before you will be allowed to take this box with you, you will need to inventory its contents and sign a receipt.

At this point, we do not know how long the box sat, unattended in the parking garage of [REDACTED]. At no time, contrary to either the plain terms of the Confidentiality Agreement you signed, or G.L. c. 93H, § 3, had you *ever* notified me or [REDACTED] that you had lost or misplaced any records with his financial data. At present, we do not know how many different people have looked inside the box – though clearly at least one person did. We do not know how many people acquired, and thus now have use of, [REDACTED] personal financial information -- not to mention, [REDACTED] and the other clients' information as well.

In light of what appears to be your profound and inexplicable carelessness, please be advised that [REDACTED] intends to hold you fully accountable. He is in the process of pricing out credit security, which he will expect you will pay in full. He also is considering hiring legal counsel to determine whether and to what extent he has any other civil remedies as a result of this serious breach.

With this letter I have copied the Attorney General's Office to remedy the violations of c. 93H. And, I am making a formal demand for the immediate return of all personal financial data of, or related to [REDACTED] so that we may tend to its destruction. I trust you understand his and our concerns, and that you will promptly return his data, certify that your production is complete and that will do so without the need for formal legal proceedings. I look forward to receiving your reply by Monday next.

Yours truly,
Richard M. Novitch

RMN:hsf

cc. [REDACTED] Martha Coakley, Esq., Attorney General
[REDACTED] (via email)
Stephen N. Lander, Esq.
[REDACTED] (via email only)
[REDACTED] (via email only)

SAMPLE LETTER

November 6, 2013

Name
Address

Dear Name,

I am writing to let you know that a recent information security event may have exposed your personal information to unauthorized access. In light of this potential access, I am providing you with information on your rights and suggestions to safeguard your personal information against potential identity theft, both in this particular event and on an ongoing basis.

First, in an information security event with a potential for identity theft, you have the right to request a police report.

Second, you have the right to request a security freeze on your credit report, which would prevent consumer credit reporting agencies from releasing any of your information without your explicit consent. Each bureau may charge you a fee of up to \$5 to place a freeze. To request a freeze, you must contact each major credit bureau with the required information:

Equifax Security Freeze	Experian Security Freeze	TransUnion Security Freeze
P.O. Box 105788 Atlanta, GA 30348 <u>Required Information:</u> Full name, current residential address, date of birth, Social Security number, and proof of current address (such as a utility bill)	P.O. Box 9554 Allen, TX 75013 <u>Required Information:</u> Full name including middle initial and generation (Sr., Jr., III) if relevant, current residential address and previous addresses for the past two years, date of birth, Social Security number, a recent utility bill or bank/insurance statement, and a legible copy of a government issued identification card (such as a driver's license) showing your name and current mailing address plus the date of issue	P.O. Box 6790 Fullerton, CA 92834-6790 <u>Required Information:</u> Full name, current residential address, Social Security number, proof of residence (such as a legible copy of a driver's license), and credit card number/expiration date to pay the \$5 fee

SAMPLE LETTER

I have taken the following steps to address this potential unauthorized access:

- I have notified the following consumer credit reporting agencies of the incident:
 - Experian: 888-397-3742
 - Equifax: 877-478-7625
 - TransUnion: 800-680-7289
- I have arranged for you to be provided with one year of credit monitoring at no cost to you. Experian will provide the ProtectMyID® credit monitoring and you may enroll online. The website for enrollment is www.protectmyid.com/enroll and your personal access code is **ECDCVFRGH**.

Additional steps you may wish to take to further protect yourself include:

- Review recent activity on your accounts so that unauthorized activity can be noticed promptly.
- Consider requesting free copies of your credit report from the three major US credit bureaus and reviewing them on an annual basis. Visit www.annualcreditreport.com for more information.
- Place a fraud alert on your credit file in response to this incident, which would make it more difficult for an identity thief to open a new account in your name.
To do this, call one of the three main credit bureaus' toll-free fraud phone numbers with your request:
 - Equifax: 877-478-7625
 - Experian: 888-397-3742
 - TransUnion: 800-680-7289

I apologize for any inconvenience and concern this situation may cause you. As an attorney, I appreciate the privacy of your personal information and will continue efforts to correct the potential exposure and ensure it does not reoccur.

If you have any questions or concerns regarding this notice, please contact:

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Boston, MA 02110
617.245.2939 Phone
egiblin@ashcroftlawfirm.com

Sincerely,

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